

UNITED STATES PATENT AND TRADEMARK OFFICE

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U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HISASHI NAKAMURA, KOUJI TERAMI
and TOSHIYUKI OKINO

Application No. 10/073,959

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on November 7, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

A review of the file indicates that the appellants filed the Appeal Brief of December 15, 2004 using the format set forth in 37 CFR § 41.37(c).

Upon an in-depth review of the Appeal Brief indicates that the following sections are missing from the Appeal Brief of December 15, 2004:

- 1) "Claims Appendix", as set forth in 37 CFR § 41.37(c)(1)(viii);
- 2) "Evidence Appendix", as set forth in 37 CFR § 41.37(c)(1)(ix); and

3) "Related Proceedings Appendix", as set forth in 37 CFR § 41.37(c)(1)(x).

A Supplemental Appeal Brief that is in compliance with 37 CFR § 41.37(c) is required. For more information See United States Patent and Trademark website www.uspto.gov, in particular the web page entitled More Information on the Rules of Practice Before the BPAI, Final rule at:

[http://www.uspto.gov/web/offices/dcom/bpai/fr2004/
moreinfo.html](http://www.uspto.gov/web/offices/dcom/bpai/fr2004/moreinfo.html).

Also, the Examiner's Answer mailed May 4, 2005 does not comply with the headings as set forth in the new rules under 37 CFR § 41.37(c). Correction is required.

Further, an Information Disclosure Statement (IDS) was filed October 18, 2004. It is not apparent from the record that the examiner considered the statement submitted nor notified applicants of why his submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

Accordingly it is

ORDERED that the application is electronically returned to the Examiner:

- 1) to hold the Appeal Brief of December 15, 2004 defective;
- 2) for applicant to file a Supplemental Appeal Brief in compliance with 37 CFR § 41.37;

- 3) for the Examiner to vacate the Examiner's Answer and submit a revised Examiner's Answer in compliance with the new rules effective September 13, 2004;
- 4) for the Examiner to consider the Information Disclosure Statement filed October 18, 2004; and
- 5) and for such further action as may be appropriate.

BOARD OF PATENT APPEALS
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By:


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